

REMARKS

Reconsideration and allowance of the claims in the application are requested. Claims 18-37 are pending in the application.

Applicant responds to the indicated Sections of the rejection as follows:

PRELIMINARY AMENDMENT:

The Examiner's comment is noted.

SPECIFICATION:

1. Claim 22 has been objected to because of an informality. Applicants have amended claim 22 to replace "one or ore" with "one or more" to overcome the informality. Withdrawal of the objection to claim 22 is requested.

2. The specification has been objected to as containing a computer program listing which consists of more than 300 lines. The program listing contained in the application at pages 16 - 65 has been deleted. In place thereof, Applicants have placed the computer program listing of pages 16 - 65 on a compact disk as an Appendix to the specification, the compact disk conforming to the standards set forth in 37 C.F.R. 1.96(c)(2). The specification has been amended at the beginning to reference the compact disk in accordance with the provisions of 37 C.F.R. 1.777(b)(4). The deletion of the program listing from the specifications; the replacement of the program listing with program listing on the compact disk and the amendment of the specification to identify the program listing is believed to overcome the objections to the specification. Withdrawal of the objections to the specification and entry of the program listing on compact disk as a replacement for the deleted program listing pages are requested.

**CLAIM REJECTION – 35 USC 102(b)**

**1. Claims 18-37 Have Been Rejected Under 35 U.S.C. 102(b) As Anticipated By  
U.S.P. 5,088,036 To J. R. Ellis Et al. Issued February 11, 1992 (“Ellis”).**

Ellis was cited and distinguished in the prosecution of parent application, Serial Number 274,273, filed 7/13/94 (Now USP 6341293) (Hennessy 1).

Claims 18 - 25 are identical to claims 1 – 8 of Hennessy 1, except claims 18 – 25 are written in program product form whereas claims 1 – 8 of Hennessy 1 are written in method form. It is well-established patent law that an inventor can protect his invention in different claim formats. Claims 18 – 25 are patentable over Ellis on the same basis as claims 1 – 8 of Hennessy 1. Withdrawal of the rejection and allowance of claims 1 – 8 are requested.

Claim 26 and dependent claims 27, 28 describe a write barrier, which prevents a garbage collector from mis-characterizing data as garbage when in fact it is not. Page 12, line 24 – 29. The cited paragraphs have been reviewed and fail to describe the problem or the solution of mutators modifying pointers within the data objects, but not when the mutators modify pointers within the thread state as described in the specification at Page 13, lines 3 – 29 and Page 14, lines 7 – 10. Without a disclosure in Ellis relating to the problem of overcoming the mischaracterization of data by a garbage collector or the solution of using a write barrier operating on the mutator threads, there is no support in Ellis for the rejection of claims 26 – 28 under 35 USC 102(b). Withdrawal of the rejection and allowance of claims 26 – 28 are requested.

Claim 29 is identical to claim 9 of Hennessy 1, except claim 29 substitutes the term “scheduler” in place of the term “scheduling means” in Hennessy 1. The term “scheduler”, prima facie, is more restrictive than “scheduling means”. Claim 29 is patentable over Ellis on the same basis as claim 9 of Hennessy 1.

Claims 30 – 37 are identical to claims 10 –17 of Hennessy 1, and are, therefore, patentable on the same basis as Hennessy 1.

Withdrawal off the rejection and allowance of claims 18 -37 are requested.

**2. Double Patenting Rejection:**

A Terminal Disclaimer is attached to overcome the double patenting rejection of Claims 18-37 based on U.S.P. 6,341,293 B1. Entry of the Terminal Disclaimer and withdrawal of the double patenting rejection are requested.

**3. Cited, But Not Applied Prior Art:**

The references Huelsbergeren et al. (U.S.P. 6,052,699) and Bush et al. (U.S.P. 6,308,319) cited, but not applied, have been reviewed and fail to disclose or suggest the elements of claims 18-37.

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Claims 30 – 37 are identical to claims 10 –17 of Hennessy 1, and are, therefore, patentable on the same basis as Hennessy 1.

**2. Double Patenting Rejection:**

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The references Huelsbergeren et al. (U.S.P. 6,052,699) and Bush et al. (U.S.P. 6,308,319) cited, but not applied, have been reviewed and fail to disclose or suggest the elements of claims 18-37.

**CONCLUSION:**

Claim 22 has been amended to overcome a formality. Claims 18-37 have been distinguished from and are patentable over the cited art. A Terminal Disclaimer has been provided to overcome the double patenting rejection based on Hennessey 1. Entry of the amendment including the Terminal Disclaimer, allowance of the claims, and passage to issue of the case are requested.

**AUTHORIZATION:**

No fee is believed due by filing of this paper. However, the Commissioner is hereby authorized to charge the fees for extension of time, which may be required for consideration of this Amendment. The Commission is also hereby to authorize to charge any additional fees which may be required for timely consideration of this Amendment, or credit any overpayment to Deposit Account No. 09-0461 Order No. Docket No. RSW9-2002-052US2 (1963-7422US1).

Respectfully submitted,

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